

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ERNEST L. MCKNIGHT,</b>	:	<b>CIVIL ACTION</b>
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>No. 13-2911</b>
	:	
<b>TAB BICKELL, <u>ET AL.</u>,</b>	:	
<b>Respondents.</b>	:	
	:	

**ORDER**

**AND NOW**, this 16<sup>th</sup> day of March, 2015, upon careful and independent consideration of the petition for writ of habeas corpus, and after review of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge, and the Objections filed by Petitioner, it is hereby **ORDERED** that:

1. Petitioner's objections (Doc. No. 20) are **OVERRULED**;<sup>1</sup>
2. The Report and Recommendation (Doc. No. 17) is **APPROVED** and **ADOPTED**;
3. The Petition for Writ of Habeas Corpus is **DENIED** with prejudice and **DISMISSED** without an evidentiary hearing; and
4. There is no basis for the issuance of a certificate of appealability; and

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<sup>1</sup> In his Objections, Petitioner argues that his initial sentence "that consisted of both a term of imprisonment and probation for the same offense was unlawful on the grounds that 42 PA. C. S. § 9721 which the state court had relied upon to impose the sentence was preempted by virtue of the Supremacy Clause." He asserts that 42 Pa. Con. Stat. § 9721 is contrary to 18 U.S.C. § 3561(A)(3), and is, therefore, invalid.

Petitioner raised this argument in his habeas petition. Magistrate Strawbridge properly concluded that Petitioner's claim was meritless as 18 U.S.C. § 3561 explicitly states that it only governs federal convictions. It does not govern sentences imposed by state courts. (See Report & Recommendation, pp. 11-12, 16-17.)

5. The Clerk of Court is directed to mark this case **CLOSED**.

**BY THE COURT:**

/s/ Mitchell S. Goldberg

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**MITCHELL S. GOLDBERG, J.**